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**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

*[Statutory Prohibition Against Use of Appropriated Funds to pay for Telephone Services]*

FILE: B-201842

DATE: May 20, 1981

**MATTER OF:** Charges for Telephone Service  
in a Private Residence

**DIGEST:** Because of necessity to ensure telephone service in the Air Deputy's residence upon his occupancy of quarters in Norway, telephone service is secured by the U.S. Government under long-term lease. For 2 months, between incumbents the residence was vacant but the telephone charges continued to accrue. Although 31 U.S.C. § 679 prohibits using appropriated funds for telephone service in a private residence, the statute is not to be applied here where neither the outgoing nor incoming Air Deputy occupied the premises during the period covered by the charges. 11 Comp. Gen. 365 (1932) modified.

*[This case concerns whether the statutory prohibition in 31 U.S.C. § 679, against using appropriated funds to pay for telephone services in a private residence, applies to Government-leased quarters when they are vacant for a short period between the incoming and outgoing occupants to whom the quarters are assigned.]* As will be explained, the statute is not for application in the limited circumstances presented and appropriated funds may be used.

The case was presented for an advance decision by Captain P. E. Ruter, Accounting and Finance Officer, Department of the Air Force, Headquarters 86th Tactical Fighter Wing (USAFE), APO New York 09012.

*[The Air Deputy for the Allied Forces Northern Europe, a United States Air Force general officer, is stationed in Norway and is provided with quarters leased by the Government. For these quarters, the Budget and Finance Office at Headquarters Allied Forces Northern Europe secures telephone service under a long-term lease with the Norwegian Telephone Company for which the Air Deputy pays the charges.]* The lease is necessary to ensure that each new Air Deputy immediately will have the 24-hour telephone service mandated by the nature of his position. If the service were terminated upon the departure of each Air Deputy, there is a likelihood of delay in providing telephone service to the successor.

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From July 14 until September 16, 1979, the Air Deputy's quarters were vacant due to a change in command. On September 17, the new Air Deputy moved into the quarters.

Since the telephone service is on a leased basis, the basic monthly charge continues to accrue during the time the residence is vacant. The former Air Deputy paid for the service until he departed and the new Air Deputy assumed the cost of the service when he commenced occupancy. The Finance Officer questions whether, in view of the statutory prohibition in 31 U.S.C. § 679, appropriated funds may be used to pay for the service during the period that the residence was vacant. As he points out, if the service charge may not be paid out of appropriated funds, the charges may be assessed against the current Air Deputy for a period when he did not occupy the residence.

Section 679 of title 31, United States Code (derived from section 7 of the act of August 23, 1912, ch. 350, 37 Stat. 414, as amended) provides in pertinent part:

"Except as otherwise provided by law, no money appropriated by any Act shall be expended for telephone service installed in any private residence or private apartment or for tolls or other charges for telephone service from private residences or private apartments \* \* \*."

While it is clear that the statutory prohibition would preclude appropriated funds from being used to pay for telephone service supplied to the Air Deputy, this does not resolve this case. Here, the telephone service was maintained during the interim period by the Government and no Government official received the benefit of this service. Thus, the question to be resolved is whether the statutory prohibition is to be applied to this situation.

Insight into the purpose and scope of 31 U.S.C. § 679 is provided in an unpublished decision of the Comptroller of the Treasury of November 12, 1912, 63 Manuscript Decision 575, issued shortly after the statute was enacted. The decision ruled that the statute did not prohibit the installation of telephones in Government buildings provided to forest rangers as residences but which also served for official purposes. In support of the holding, it was stated in part:

"Section 7 of the Legislative, Executive and Judicial Appropriation Act, set out in your letter, was not passed as I understand for the purpose of requiring government employees to bear the expense of telephone messages on public business, but on the contrary, its plain intent was that the Government should not be chargeable with the cost of private and personal messages of such employees. The provision in question was passed to secure the latter purpose and grew out of the fact that a large number of public officers here in the District of Columbia had installed in their private residences telephones at Government expense under the guise of their use for public purposes, when in truth the Government had provided them with sufficient telephones in their public offices to transact all the public business."

As can be seen, the statute was enacted to stop public officers from obtaining telephone service at Government expense under the guise of the telephone being necessary for public purpose. As further indicated above, this legislative intent must be kept in mind in all cases but should not cause an inflexible rule to be formulated which then results in an officer or employee bearing the cost of a telephone for public (i.e., Government) use. We have recognized and applied these principles in certain situations such as authorizing reimbursement of a telephone reconnection charge to a service member who was required by the Government to move his mobile home from one mobile home park to another. 56 Comp. Gen. 767 (1977). There we indicated that the statute should not be interpreted so as to preclude reimbursement to an individual "for an expense incurred as a result of governmental action over which he had no control."

However, in a case somewhat similar to the present case it was held that the statute prohibited the use of appropriated funds to pay for telephone service in the residence quarters of the United States Ambassador to Mexico from September 1 to October 31, 1930, a period during which there was no occupant of such quarters. 11 Comp. Gen. 365 (1932). That case differs from the present case in that in the 1932 case the telephone service was apparently retained during

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the interim period primarily due to the inadvertence of the responsible Government official and not due to any long-term contract or pressing Government requirement for the service.

In any event we believe that the instant case does not fall within the statutory prohibition. Clearly, there is no public official who received the benefit of the telephone service. Indeed, no public official received the telephone service and the quarters were not the "private residence" of either the outgoing or incoming officer during the period in question. Thus, there would be no frustration of congressional intent if appropriated funds were used to pay for this telephone service.)

While ordinarily telephone service should be cancelled during periods of nonoccupancy of Government-procured quarters to prevent incurring expenses such as these, in this limited situation where public necessity required retention of telephone service during the nonoccupancy, appropriated funds may be used to pay for the telephone service.) To the extent that the decision in 11 Comp. Gen. 365 (1932) is inconsistent with this decision, it is modified.

The voucher presented is being returned for payment.)

*Milton J. Fowler*

Acting Comptroller General  
of the United States